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August 8, 2005

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VIA ELECTRONIC FILING

Honorable Judge Jenkins
 U.S. District Court
 Northern District of California
 450 Golden Gate
 San Francisco, CA 94102

Re: *TheraSense and Abbott v. Nova and Becton Dickinson*
USDC Case Nos. C04-2123; 04-3732; 04-3327 MJJ/BZ

Dear Judge Jenkins:

I write in response to Mr. Badke's letter of August 5 only to clarify the nature of the consolidation which Plaintiffs seek. Mr. Badke indicates that Defendants do not object to pre-trial consolidation of all three cases but suggests that they oppose trial consolidation because two different sets of patents are at issue. But the consolidation that Plaintiffs seek would not affect which patents are litigated at which trial. All four patents are at issue in both Case No. C04-2123 and in Case No. C04-3732.¹ The difference between the cases is not the patents at issue, but the defendants. The former case has been brought against Becton Dickson & Company ("BD") and the latter against Nova Biomedical ("Nova") — by the same plaintiffs regarding the same patents. Indeed, the very same claims of the patents are at issue in the two cases because the same infringing products are at issue in both cases: Nova manufactures the infringing products that BD sells. Consolidation will mean only one jury will be needed to

¹ Case No. C04-3327 is a declaratory judgment action brought by Becton Dickson & Company against TheraSense before Abbott Laboratories was added as a plaintiff. Given that this is essentially the same case as Case No. C04-2123, BD has not even been making filings in this docket for approximately six months.

MUNGER, TOLLES & OLSON LLP

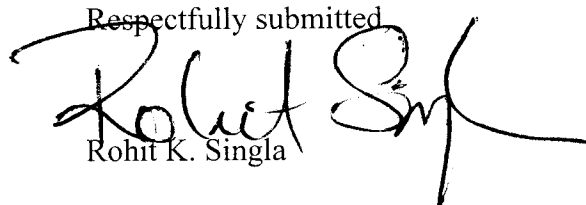
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determine whether the manufacture, distribution, and sale of the same products by a manufacturer and a distributor infringes the same claims of the same patents.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Rohit Singla", with a long horizontal flourish extending to the right.

Rohit K. Singla

RKS:ca

cc: Bradford J. Badke, Esq.
James W. Cannon, Jr. Esq